

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

ROBERT E. EGGMANN, *in his capacity  
as Trustee of the Estate of Joseph W.  
Diekemper and Margaret A. Diekemper,*

Plaintiff,

v.

JAMES RICHARD MYERS, *et al.*,

Defendants.

Civil Case No. 08-cv-757-JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on Plaintiff Robert Eggmann's Motion to Voluntarily Dismiss (Doc. 146) Defendant Ray Holcomb pursuant to Federal Rule of Civil Procedure 41(a)(2).

Rule 41(a)(2) provides that only the Court may dismiss an action after an adverse party has filed an answer or motion for summary judgment and in the absence of a stipulation of dismissal of an entire case from all the parties.

Being fully advised of the premises, especially the fact that Eggmann will continue to pursue his claims against the remaining Defendants and this Court's recent approval of the unopposed settlement between Eggmann and Holcomb, (*see* Doc. 145), the Court **GRANTS** the instant motion, thereby **DISMISSING** Holcomb **with prejudice**. The Court **DIRECTS** the Clerk of Court to terminate Holcomb as a defendant in this matter and further **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of this case.

**IT IS SO ORDERED.**

**DATED: July 19, 2010**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**